

**AMENDMENT TO H.R. 1304, AS REPORTED
OFFERED BY MR. STEARNS OF FLORIDA**

Page 3, line 17, insert before the period the following: “, but only if such health care professionals have received prior approval for such negotiations from the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (i).”.

Page 6, after line 21, insert the following new subsection (and redesignate the succeeding subsection accordingly):

1 (i) PRIOR APPROVAL.—

2 (1) IN GENERAL.—Health care professionals
3 who seek to engage in negotiations with a health
4 plan as provided in subsection (a) must obtain ap-
5 proval from the Commission or the Assistant Attor-
6 ney General prior to commencing such negotiations.
7 The Commission or the Assistant Attorney General
8 shall grant such approval if the Commission or As-
9 sistant Attorney General has determined that rec-
10 ognition under subsection (a) of the group of health
11 care professionals for the purpose of engaging in col-
12 lective negotiations with the health plan will promote
13 competition and enhance the quality of patient care.
14 The approval that is granted under this subsection
15 may be limited in time or scope to ensure that these

1 criteria are met. The Commission and the Assistant
2 Attorney General shall make a determination re-
3 garding a request for approval under this paragraph
4 within 30 days after the date it is received, if the
5 request contains the information specified in regula-
6 tions issued under paragraph (2). Failure by the
7 Commission or Assistant Attorney General to make
8 such determination within such 30-day period will be
9 deemed to be an approval of the request by the
10 Commission or the Assistant Attorney General.

11 (2) REGULATIONS.—The Commission, in con-
12 sultation with the Assistant Attorney General, shall
13 publish regulations implementing this subsection
14 within six months of the effective date of this Act.
15 Such regulations shall include the following:

16 (A) A description of the information that
17 must be submitted by health care professionals
18 who seek to obtain approval to engage in collec-
19 tive negotiations.

20 (B) Provisions for the opportunity for the
21 public to submit comments to the Commission
22 or the Assistant Attorney General for consider-
23 ation in reviewing any request for approval by
24 health care professionals to engage in collective
25 negotiations under this section.

1 (C) Provision for a filing fee in an amount
2 reasonable and necessary to cover the costs of
3 the Commission and the Assistant Attorney
4 General to implement this subsection. On an
5 annual basis, this fee shall be updated to reflect
6 any increases or decreases determined to be
7 necessary to cover such costs.

8 (3) COORDINATION.—The Commission and the
9 Assistant Attorney General shall coordinate so that
10 an application is reviewed under this subsection by
11 either the Commission or the Assistant Attorney
12 General, but not both.

13 (4) EXEMPTION FOR SMALL GROUPS.—

14 (A) IN GENERAL.—Notwithstanding any
15 other provision of this subsection (other than
16 subparagraph (B)), no prior approval is re-
17 quired under this subsection in the case of a
18 group of health care professionals who are act-
19 ing collectively with respect to a negotiation if
20 such group constitutes less than 20 percent of
21 the health care professionals in a specialty (or
22 subspecialty) in the market area involved, as
23 determined under regulations of the Commis-
24 sion.

1 (B) OVERSIGHT.—The Commission shall
2 establish a process under which, if it receives a
3 bona fide request that alleges that the negotia-
4 tions of a group described in subparagraph (A)
5 has not promoted competition or has not en-
6 hanced the quality of patient care, the Commis-
7 sion will review the request and may take such
8 action as the Commission determines to be ap-
9 propriate. Such action may include ordering
10 that the results of the negotiations be vitiated
11 and that the exemption under subparagraph
12 (A) not apply to such group for such period as
13 the Commission may specify.

Page 8, after line 8, insert the following:

14 (4) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (5) ASSISTANT ATTORNEY GENERAL.—The
17 term “Assistant Attorney General” means the As-
18 sistant Attorney General in charge of the Antitrust
19 Division of the Department of Justice.